

**ANTI-DISCRIMINATION AND SEXUAL HARASSMENT POLICY**

POLICY CUSTODIAN:	Vice President: Group Human Resources		
AUTHORISED BY:	Chief People Officer	DATE REVISED:	December 2021

1. INTRODUCTION

- 1.1 AGA is committed to maintaining a workplace in which all individuals are treated with dignity and respect, and where each individual can work in a professional atmosphere that promotes equal employment opportunities and prohibits discriminatory practices.
- 1.2 AGA strictly prohibits discrimination or harassment on the basis of race, sex, gender, pregnancy, marital status, family responsibility, ethnic or social origin, colour, culture, language, age, sexual orientation, HIV status, disability, and religion, or on any other arbitrary ground.
- 1.3 All employees, applicants for employment, as well as AGA's officers, directors, temporary employees, consultants, vendors and other persons conducting business with AGA, are expected to work in a manner that prevents discrimination and workplace harassment, including sexual harassment, which is a form of sex discrimination and includes harassment on the basis of sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity and the status of being transgender.
- 1.4 AGA has a zero-tolerance policy for any form of discrimination and harassment, as well as for any retaliation against anyone who, in good faith, complains or provides information regarding suspected discrimination or harassment, including sexual harassment. No individual shall be subject to adverse employment action, including being discharged, disciplined, or otherwise subject to adverse employment action, because the individual reports an incident in potential violation of this policy, provides information or otherwise assists in any investigation of any complaints of discrimination or harassing conduct, including sexual harassment.
- 1.5 This policy may be reviewed and amended from time to time by AGA in its discretion.

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- 1.6 All employees, officers and directors are required to familiarise themselves with and adhere to the provisions of this policy, as amended from time to time. If employees have any queries arising from this policy they should contact the Human Resources Department.

2. **PURPOSE**

The purpose of this policy is to provide for a workplace that is free from harassment of any kind and one where the integrity, dignity, and right to equality of all employees and all other persons who have dealings with AGA are respected.

3. **SCOPE AND APPLICATION**

- 3.1 Although this policy is intended to guide AGA and its employees in the working environment, the perpetrators and victims of harassment, including (without limitation) sexual harassment, may also include job applicants, clients, suppliers, contractors and others having dealings with the business.
- 3.2 Any employee, officer or director who engages in discrimination, harassment, sexual harassment or retaliatory conduct will be subject to disciplinary action, including termination or removal from his or her position. AGA will take all other steps reasonably necessary or appropriate to deal with perpetrators of harassment, including sexual harassment, who are not employees.
- 3.3 A victim of harassment may raise a complaint under this policy, whether or not the victim is an employee of AGA, where the harassment has taken place in the workplace or in the context of either the victim's or the perpetrator's employment with AGA.
- 3.4 AGA will determine what steps are appropriate to take, with reference to this policy and any applicable legislation.
- 3.5 For purposes of this policy, "workplace" is not limited to the physical workplace and includes any working environment in which persons (whether or not employees of AGA) are associated with or linked to the business conducted by AGA. The workplace also includes spaces or digital platforms where the business of AGA is conducted, including through technology, digital platforms, and remote working.
- 3.6 Any complaint involving harassment, including sexual harassment, should be raised using the procedure in this policy.

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- 3.7 Any workplace grievance that does not involve harassment should be raised using the AGA Grievance Policy.

4. **GUIDING PRINCIPLES**

- 4.1 AGA is committed to creating a work environment in which the dignity of employees is respected, and that is free from harassment based on any one or a combination of the grounds listed above. AGA does not condone or permit harassment.
- 4.2 All employees have a duty not to behave in a manner that is or is perceived to be offensive to others, and in particular are required to refrain from committing acts of harassment. Employees should ensure that their standards of conduct do not cause offence and they should discourage all forms of unacceptable behaviour, including harassment, on the part of others.
- 4.3 In accordance with the provision of this policy, management is required to take allegations of harassment seriously, to address them expeditiously and with sensitivity, and to maintain confidentiality to the extent practicable and appropriate under the circumstances. Victims of harassment should not feel that their complaints are ignored or trivialised, or fear any reprisals.
- 4.4 Management must take all reasonable steps to ensure that that the workplace is free of all forms of harassment contemplated by this policy.
- 4.5 Any employee is guilty of serious misconduct who:
- 4.5.1 commits an act of unfair discrimination or harassment; or
 - 4.5.2 victimises or retaliates against an employee who lodges a complaint of discrimination or harassment in good faith.

5. **SEXUAL HARASSMENT**

- 5.1 AGA has a zero-tolerance policy for any form of sexual harassment. Sexual harassment is offensive, a violation of our policies, is unlawful, and may subject AGA to liability for harm to victims of sexual harassment. Harassers may also be individually subject to liability. All employees are required to work in a manner that prevents sexual harassment in the workplace, and employees of every level who engage in sexual harassment, including managers and supervisors who engage in sexual harassment or who knowingly allow such behaviour to continue, will be penalised for such misconduct.

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- 5.2 As set forth above, sexual harassment is a form of sex discrimination and includes harassment on the basis of sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity and the status of being transgender. Sexual harassment is often described as unwelcome conduct of a sexual nature that violates the rights of an employee and constitutes a barrier to equity in the workplace.
- 5.3 Sexual harassment may arise from a single serious incident or from repeated incidents.
- 5.3.1 There are different types of sexual harassment. One form of sexual harassment is known as **quid pro quo** harassment, when a person in a position of authority tries to trade job benefits – hiring, promotion, continued employment or any other terms, conditions, privileges of employment – for sexual favours.
- 5.3.2 Another form of sexual harassment creates a **hostile work environment**, which may include a range of overt to subtle behaviour and may involve individuals of the same or different gender.
- 5.3.3 **Victimisation** occurs where an employee is victimised or intimidated for failing to submit to sexual advances.
- 5.3.4 **Sexual favouritism** occurs where a person in authority in the workplace rewards those who respond to that person’s sexual advances.
- 5.4 When considering whether something constitutes sexual harassment, the following factors should be considered:
- 5.4.1 Was the harassment on a prohibited ground?
- 5.4.1.1 Sexual harassment involves discrimination on the grounds set forth in paragraph 5.2.
- 5.4.2 Was the conduct unwelcome?
- 5.4.2.1 There are different ways in which an employee may indicate that conduct of a sexual nature is unwelcome, including non-verbal conduct such as walking away or not responding to the perpetrator.
- 5.4.2.2 Previous consensual participation in sexual conduct does not mean that the conduct continues to be welcome.

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5.4.2.3 Where a complainant has difficulty indicating to the perpetrator that the conduct is unwelcome, the complainant may seek the assistance and intervention of another person such as a co-worker, superior, counsellor, human resource official, family member or friend.

5.4.3 What was the nature and extent of the conduct?

5.4.3.1 The following describes some of the types of acts that may constitute unlawful sexual harassment and that are strictly prohibited under this policy.

(i) **Physical conduct** of a sexual nature includes all unwelcome physical contact. The most serious offenses include rape, sexual battery, molestation or attempts to commit these assaults, but other examples include touching, pinching, patting, grabbing, brushing against another employee's body or poking another employee's body.

(ii) **Verbal conduct** of a sexual nature includes unwelcome innuendo, suggestions, hints, sexual advances or propositions such as requests for sexual favours, subtle or obvious pressure for unwelcome sexual activities, comments with sexual overtones, sex-related jokes or insults, graphic comments about a person's body made in their presence or to them, inappropriate enquiries about a person's sex life, whistling of a sexual nature and the sending of sexually explicit text by electronic means or otherwise.

(iii) **Non-verbal conduct** of a sexual nature includes unwelcome sexually oriented gestures, noises, indecent exposure and the display or sending of sexually explicit pictures or objects by electronic means or otherwise. This includes such sexual displays on workplace computers or cell phones and sharing such displays while in the workplace.

(iv) In addition to causing emotional distress, psychological harm and poor work performance, sexual harassment can negatively impact a victim's earnings, development or career progression.

6. OTHER FORMS OF HARASSMENT

6.1 For purposes of this policy "other forms of harassment" means any physical, verbal, or non-verbal conduct which is unwelcome and offensive to the recipient that may be on the other grounds listed in paragraph 1.2 above. Conduct that is not based on the

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grounds listed in paragraph 1.2 or that does not constitute discrimination may nevertheless constitute harassment.

6.2 Examples of other forms of harassment include, but are not limited to:

6.2.1 derogatory remarks about the recipient's culture, language, race, religion, etc.;

6.2.2 inappropriate and unwelcome gestures;

6.2.3 racist, or culturally or religiously intolerant e-mails, pictures, jokes, comments, remarks, etc.

6.2.4 any other conduct which causes the recipient to feel threatened, humiliated, intimidated, patronised, denigrated, bullied or distressed, or which impairs or adversely affects the dignity, equality, job security or employment opportunity of the recipient.

6.3 As in the case of sexual harassment, harassment on other grounds may arise from a single serious incident or from repeated incidents.

7. **PROCEDURE**

7.1 This procedure should be followed to report all forms of harassment, including sexual harassment.

7.2 **Reporting harassment**

7.2.1 Individuals who believe they may have been the victim of harassment or discrimination, including sexual harassment, or who have witnessed such conduct—including conduct on the part of third parties conducting business with AGA—are strongly urged to report this using the complaint procedure outlined in the paragraphs below.

7.2.2 A victim of harassment can make a report to his or her line manager, any member of the Human Resources Department, Compliance and through the whistleblower mechanism or to any other person with whom he/she is comfortable.

7.2.3 Any line manager or Human Resources Manager who receives a complaint must notify the VP: Human Resources and VP: Compliance of the complaint as soon as reasonably practicable.

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- 7.2.4 If either the VP: Human Resources or VP: Compliance is the subject of a complaint, including a complaint of sexual harassment, made under this policy, then the complaint shall be presented to the Chair of the Board of Directors, who will determine the best person or persons to handle the investigation.
- 7.2.5 Complaints under this policy, including complaints of sexual harassment, made against any employee who is a VP or more senior-level employee, shall also be promptly reported to the Chair of the Board of Directors.
- 7.2.6 A complaint made under this policy against any member of the Board of Directors shall be reported to the Lead Independent Non-Executive Director, except where the Lead Independent Non-Executive Director is the subject of the complaint, in which case the complaint shall be presented to the Chair of the Board of Directors.
- 7.2.7 Notwithstanding the reporting procedures set forth above, any individual who believes that he or she has been a victim of harassment under this policy is also welcome to make a report directly to the Chair of the Board of Directors or to the Lead Independent Non-Executive Director.

7.3 **Options in relation to dealing with the complaint**

- 7.3.1 Following its receipt of a harassment complaint, the Human Resources Department shall advise the complainant of the informal and formal procedures available to deal with the complaint and explain each procedure to the complainant.
- 7.3.2 The complainant may choose which procedure should be followed. However, the VP: Human Resources and VP: Compliance reserve the right in their discretion to institute a formal procedure to address the complaint, even in circumstances where the complainant does not wish to do so, after considering relevant factors, including:
- 7.3.2.1 the severity of the harassment complained of;
 - 7.3.2.2 whether or not the alleged perpetrator has a history of harassment; and
 - 7.3.2.3 the risk to other persons in the workplace if a formal procedure is not followed.
- 7.3.3 Irrespective of the procedure adopted, AGA will take steps to ensure that complaints about harassment are investigated and handled in a manner that, to the extent practicable and appropriate under the circumstances, maintains confidentiality concerning the identities of the persons involved. Only appropriate members of

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management as well as the aggrieved person, the alleged perpetrator, representatives, witnesses and interpreter (if required) should be made aware of the relevant details, and be present during any investigation and, if applicable, any related enquiry.

7.3.4 AGA will accordingly as a general principle not disclose the name of a complainant or the circumstances related to the complaint to any person except where disclosure is reasonably necessary or appropriate for the purpose of investigating the complaint or taking disciplinary measures in relation to the complaint.

7.3.5 Informal procedure

7.3.5.1 The informal procedure may involve one or more of the following:

- (i) a discussion taking place between the complainant or another appropriate person/s and the perpetrator in which it is explained to the latter that the behaviour in question is unwelcome, that it offends the complainant, that it makes the complainant uncomfortable, or that it interferes with the complainant's work; or
- (ii) an appropriate person approaching the perpetrator, without revealing the identity of the complainant, and explaining to the perpetrator that certain forms of conduct constitute harassment (sexual or otherwise), are offensive and unwelcome, make employees feel uncomfortable, or interfere with their work.

7.3.5.2 During any discussion of the kind outlined above a representative of the Human Resources Department should be present to keep a detailed record and minutes of the meeting and/or discussion, and ideally the alleged perpetrator's manager or supervisor should attend the meeting and/or discussion as well.

7.3.5.3 The Human Resources Department will consider any further steps that can be taken to assist in dealing with the complaint on an informal basis.

7.3.6 Formal procedure

7.3.6.1 In instances where:

- (i) the informal procedure does not properly address or resolve the complaint;
- (ii) the harassment continues;

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- (iii) the harassment complained of is serious; and/or
 - (iv) the complainant chooses to initiate a formal procedure,
- then a formal procedure should be followed.

7.3.6.2 To initiate a formal procedure, the complainant shall lodge a written complaint. If an informal verbal complaint was initially lodged and in the event that a formal procedure is appropriate, the VP: Human Resources and VP: Compliance may request the complainant to lodge a formal complaint in writing.

7.3.6.3 The complainant will lodge the complaint with the Human Resources Department, who must then inform the VP: Human Resources and VP: Compliance of the complaint as soon as reasonably practicable. The complainant should indicate the desired outcome for the formal procedure in the complaint.

7.3.6.4 Whether or not this is the complainant's desired outcome, if there is *prima facie* evidence of harassment of a serious kind, then appropriate disciplinary proceedings may be instituted immediately, which may result in the perpetrator's suspension without pay or dismissal pending the investigation.

7.3.6.5 The VP: Human Resources and VP: Compliance will, as soon as reasonably possible, conduct an investigation into the allegations of harassment in order to ensure that the complaint is dealt with seriously and expeditiously. Detailed records should be kept during the course of the investigation. In appropriate circumstances, the VP: Human Resources and VP: Compliance may appoint an external service provider (for example, outside legal counsel) to conduct the investigation and to make a recommendation. The VP: Human Resources and VP: Compliance, with the assistance of external service providers where appropriate, will decide on the type of investigation required in the circumstances, will assess relevant facts, and will communicate the outcome of the investigation to the complainant and to any other affected employees.

7.3.6.6 Where appropriate, the alleged perpetrator may be transferred to another work area or may be suspended on full pay pending the outcome of the investigation and any disciplinary proceedings that may follow.

7.3.6.7 If an investigation does not establish evidence of harassment, a disciplinary enquiry will not be convened and the parties will be advised accordingly.

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8. **ADVICE AND ASSISTANCE**

All employees can make complaints or seek assistance under the policy from the VP: Human Resources and VP: Compliance, or contact the whistleblowing line if they feel uncomfortable raising these issues with their direct managers.

9. **ADDITIONAL SICK LEAVE**

Where an employee's existing sick leave entitlement has been exhausted, AGA will give due consideration to granting additional sick leave in cases of serious harassment where the employee, on medical advice, requires trauma counselling or other assistance of a similar kind.

10. **ANTI-RETALIATION STATEMENT**

- 10.1 AGA will not tolerate intimidation, victimisation, or discrimination against a complainant or against someone who assists in an investigation into allegations of harassment and any disciplinary process that may follow. Retaliation is also prohibited for any other types of protected activity, such as encouraging a fellow employee to report sexual or other harassment.
- 10.2 No employee should suffer harassment, retaliation, or adverse employment consequences as a result of raising a concern in good faith in terms of this policy or assisting any person to do so.
- 10.3 Retaliation can be any action that could discourage an individual from coming forward to make or support a policy violation claim. Retaliatory action need not be job-related or occur in the workplace (e.g., threats of physical violence outside of work hours).
- 10.4 Acts of retaliation should be reported immediately and will be investigated promptly. Retaliation by any employee of AGA, directly or indirectly, against a complainant or person assisting in an investigation or related process to deal with a harassment complaint constitutes serious misconduct, which will be dealt with in accordance with AGA's Policy and Procedure for Dealing with Poor Conduct. Retaliation will be treated with the same strict discipline as will the harassment or discrimination itself, regardless of the outcome of the original investigation.
- 10.5 In order to evaluate the effectiveness of the process followed to deal with a complaint, and to ensure that the complaint was appropriately resolved, the Human Resources

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Department should arrange a follow up meeting with the complainant three months after the relevant process was concluded.

11. RIGHTS OF THE COMPLAINANT

A victim of harassment, sexual or otherwise, has the right to pursue separate criminal or civil proceedings against an alleged perpetrator, and the legal rights of the victim are in no way limited by this policy.

12. DISPUTE RESOLUTION

Should a complaint of sexual harassment not be satisfactorily resolved by the internal procedures set out above an affected party may refer the matter to the Commission for Conciliation, Mediation and Arbitration in accordance with the provisions of the EEA.

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